

## **Government Gazette of 09 April 2016**

### **TR 167**

#### **Facts**

Mr M, a Swiss national intends to set up a Foundation under the Foundations Act 2012 for the benefit of a class of beneficiaries residing in France. The Foundation shall apply for a Category 1 Global Business Licence as well as for a Tax Residence Certificate under Section 73 of the Income Tax Act in respect of the Double Taxation Convention between Mauritius and France since distributions would be made to residents of France.

The Foundation shall also pursue charitable objects.

#### **Points at issue**

1. Whether the Foundation shall be treated as a company in accordance with Section 2 of the Income Tax Act for income tax purposes?
2. Whether the Foundation shall be entitled to access the Double Taxation Convention between Mauritius and France?

#### **Ruling**

1. In accordance with Section 2 of the Income Tax Act, a company includes a Foundation. The Foundation shall therefore be treated as a company for income tax purposes.
2. The Foundation shall also be entitled to treaty benefits from the Double Taxation Convention between Mauritius and France provided that it does not deposit a declaration of non-residence with the Director-General in respect of any income year as provided under Section 49A of the Income Tax Act.